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Linking Science with Local Solutions and Decision-Making

Legal Strategies for Implementing Regional Wastewater Solutions

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Tips on the successful negotiation of intermunicipal agreements for wastewater treatment and disposal services from the perspective of both the sending and the receiving community.



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- Intermunicipal Agreements between “governmental units” are authorized under G.L. c. 40, §4A.
- A “governmental unit” includes a city, town or a regional school district, a special purpose district, a regional planning commission, a regional transit authority, a water and sewer commission established under chapter 40N or by special law, a county, or a state agency.

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- An IMA must be authorized by a vote of the Board of Selectmen in a Town or a Town or City Council.
- No longer a requirement for Town Meeting authorization.
- May cover any service, activity, or undertaking which any contracting unit is authorized to perform by law.
- Exempt from bidding under G.L. c. 30B, § 1(b)(3).



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- An IMA may provide that participants are not exempt from liability for their obligations, meaning that a Town's financial obligations under the IMA are not subject to appropriation.
- Must provide sufficient financial safeguards for all participants including record keeping, audits, and performance security.
- An IMA may provide for a process for removal or termination.



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- An IMA may have a maximum term of 25 years.
- An IMA must establish such maximum financial liability of the parties, as may be specified in the authorizing votes of the parties thereto.
- A governmental unit, when duly authorized to do so in accordance with the provisions of law applicable to it, may raise money by any lawful means, including the incurring of debt for purposes for which it may legally incur debt, to meet its obligations under such agreement.

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Creating special purpose regional entities through existing legislation and special legislation to address regional wastewater needs.



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- Independent regional wastewater districts under G.L. c. 40N (Model Water and Sewer Reorganization Act.)
- A body politic and corporate and political subdivision of the Commonwealth.
- An independent public instrumentality.
- The commission shall not be subject to the supervision of the municipality or of any department, commission, board, bureau or agency of the municipality except to the extent and in the manner provided in c. 40N.



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- Regional water and sewer district planning committees from any two or more cities or towns may join together to form a regional water and sewer commission district planning board or boards.
- Proposed agreement submitted for approval.
- Town Meeting vote in each Town required.
- Process is similar to establishing a regional school district.



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- Town Meeting vote in each Town must approve the creation of the district by majority vote using a printed ballot.
- Powers include acquisition of interests in real property, incurring of debt, fixing fees, and assessing betterments.
- Regional wastewater commissions, if the agreement so provides, may make assessments against member municipalities.



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- Regional wastewater entities may also be created by an act of the General Court.
- Approval by a home rule petition voted on by Town Meeting.
- Potential for general legislation if more than one municipality is affected.
- Examples include the Massachusetts Water Resources Authority. Chapter 372 of the Acts of 1984.

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Available tools for conducting joint purchasing and procurement for planning, engineering, legal, and financial services.



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- Undertaking joint purchasing programs pursuant to G. L. c. 7, § 22B.
- Lead agency is responsible for procurement of services under G.L. c. 30B.
- Contracting agency is not subject to 30B.
- Can be a useful tool in retaining the services of wastewater consultants, attorneys, and other professional services as part of wastewater facilities planning.



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- Possible use of Cape Cod Commission as organizing entity similar to Solid Waste Advisory Committee.
- Can also be accomplished through an IMA.
- See example of Chatham and Harwich – Muddy Creek Project Memorandum of Understanding.